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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,273	10/23/2001	Tal Givoly	XACTP010	1246
28875	7590	08/11/2006	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			JEAN, FRANTZ B	
			ART UNIT	PAPER NUMBER
			2151	
DATE MAILED: 08/11/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Applicati n N .</b>	<b>Applicant(s)</b>	
	10/039,273	GIVOLY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Frantz B. Jean	2151	

**-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05/24/2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1-21 and 23-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>05/10/06</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

This office action is in response to applicants' response filed on 05/10/2006. Claims 1-26 are pending in this application.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-21, 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Bullard US Application Number 2002/0091636 A1.

As per claims 1, 11, 21, and 25-26, Bullard teaches a computer program product, a system and a method for contract-based aggregation (see figs 1, 31; paragraph 0187 and 0193), comprising: (a) receiving records (data collection/record) indicative of network events, wherein the records are received in at least one aggregator (flow aggregation processor/flow data collector) for the purpose of aggregating the records (see figs 1-3; par 0030-0034); (b) identifying contracts associated with the records (fig 31; par 0187, 0191-0193; par 0073-0075); and (c) aggregating the records based at least in part on the contracts using the at least one aggregator (figs 1-3, 8A, 8B, 31; abstract; par 0079; par 0193; par 0040-0041). Furthermore, Bullard discloses correlating at least one of the contracts with at least one aspect of the received record

(par 0192-0193; there is a one to one relationship between the policy and what the accounting process will monitor in the network; in other words, records are aggregated in Bullard based on certain features and characteristics of the contracts/policy; therefore, the accounting records are very flexible par 0193); Bullard also discloses a network management system database and policy server (par 0032 and 0109).

As per claims 2 and 12, Bullard teaches a method and a product, wherein the contracts are between a customer and a service provider operating the aggregator (fig 31; par 0045-0047; par 0193).

As per claims 3 and 13, Bullard teaches a method and a computer program product, wherein the contracts are for different levels of services to be provided to the customer (fig 1-3, 31 par 0193).

As per claims 4 and 14, Bullard teaches a method and a computer program product, wherein the contracts are for different services to be provided to the customer (figs 1-3; 31; par 0193); par 0030-0034).

As per claims 5 and 15, Bullard teaches a method and a computer program product, wherein a contract identifier is included as a component of the records (fig 31, 1-3, 8; par 0187; 0191-0193).

As per claims 6 and 16, Bullard teaches a method and a computer program product, wherein a speed with which the records are aggregated is based on the contracts (fig 31, 1-3, 8; par 0187; 0191-0193).

As per claims 7 and 17, Bullard teaches a method and a computer program product, wherein an amount of data processed while the records are aggregated is based on the contracts (fig 31, 1-3, 8; par 0187; 0191-0193; par 0030-0034).

As per claims 8, 18, and 23-24, Bullard teaches a method and a computer program product, wherein the data is selected from the group consisting of a customer identifier, a service identifier, a source identifier, a destination identifier, a records size identifier, and a quality of service identifier (fig 8A-8B; par 0074-0077; par 0097).

As per claims 9 and 19, Bullard teaches a method and a computer program product, and further comprising separating the records into separate groups based on the contracts, and aggregating the records of each group using a separate aggregator (see fig 31; par 0190-0193 separate the records into group, wherein company X information/packet is likely to be transmitted first and have a better service than Company Y because Company X is paying for a better service or has a better contract than Company Y).

As per claims 10 and 20, Bullard teaches a method and a computer program product,

and further comprising aggregating the records to generate separate aggregations using a single aggregator (see fig 1-3).

Claim 22 has been allowed.

### ***Response to Arguments***

Applicant's arguments filed 05/10/06 have been fully considered but they are not persuasive.

Applicants argued that Bullard does not teach: (1) correlating at least one of the contracts with at least one aspect of the received records, (2) a contract identifier is included as a component of the records, (3) a speed with which the records are aggregated is based on the contracts, (4) an amount of data processed while the records are aggregated is based on the contracts, (5) separating the records into separate groups.

The examiner respectfully submits that Applicants have misinterpreted the prior art of record to Bullard. As stated in the rejection above, paragraphs 0190-0193 of Bullard explicitly discuss the relationship and dependency among records and policy/customer/contract (see claims 1 and 11 rejection). Bullard further discusses accounting records flexibility to deal with contracts (par 0193). All the other features regarding items 2-5 can be found in the rejection above and/or explicitly or implicitly in par 0190-0193 of Bullard. Specifically, speed of records aggregated and amount of data processed (see items 3-4) can be interpreted to evolve from the flexibility of the accounting process (14). As a result, the service management process 750 provides the

level of service that was delivered at the same semantic level as the actual contract par 0193.

Examiner believes that Bullard teaches all the features of the invention as claimed. Accordingly, the rejection should be maintained.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brown (6026368).

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Shea et al. 6,064,881 discloses a technique for gathering, sorting and distributing usage data records. The system includes separating/sorting the records into separate groups based on the contracts, and aggregating the records of each group using a separate aggregator (see fig 3, elements 62, 74, 64 and 66; abstract; summary of the invention).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571 272 3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz Jean

  
**FRANTZ B. JEAN**  
**PRIMARY EXAMINER**